

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOHN DOE, a fictitious name,

Petitioner,

v.

1:17-CV-1005
(GTS/CFH)

HOWARD ZUCKER, M.D., in his official capacity
as Commissioner of Health of the State of New York,

Respondent.

APPEARANCES:

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OF COUNSEL:

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HARRISON McAVOY, ESQ.
MARGAUX POUEYMIROU, ESQ.
MATTHEW J. KOENIG, ESQ.
NOELLE M. YASSO, ESQ.

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

This action, filed by John Doe ("Petitioner") against New York State Commissioner of Health Dr. Howard Zucker ("Respondent"), returns to this Court following the Second Circuit's issuance of a Mandate on March 7, 2025, vacating this Court's Order of June 30, 20203, and remanding this case with instructions to dismiss Petitioner's Amended Verified Petition for lack of subject-matter jurisdiction. (Dkt. No. 277.) For the reasons stated in the Second Circuit's Mandate, this Court dismisses Petitioner's Amended Verified Petition for lack of subject-matter

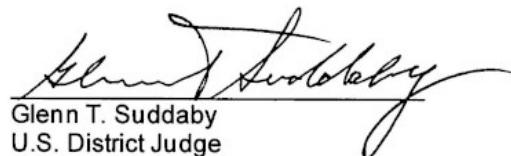
jurisdiction. (*Id.*) Furthermore, because Petitioner's Amended Verified Petition is being dismissed for lack of subject-matter jurisdiction due to mootness, that dismissal is without prejudice. *See, e.g., U.S. v. Hamburg-Amerikanische Packet-Fahrt-Actien Gesellschaft*, 239 U.S. 466, 477-78 (1916); *Seijas v. Republic of Argentina*, 391 F. App'x 901, 903 (2d Cir. 2010); *Bryant v. Wyman*, 419 F.2d 109, 110 (2d Cir. 1969); *Amador v. A/S Ludwig Mowinckels Rederi*, 224 F.2d 437, 441-42 (2d Cir. 1955).

ACCORDINGLY, it is

ORDERED that Petitioner's Amended Verified Petition (Dkt. No. 161) is **DISMISSED** **without prejudice** for lack of subject-matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1); and it is further

ORDERED that the Clerk of the Court shall issue a Judgment for Respondent and close this action.

Dated: March 25, 2025
Syracuse, New York



Glenn T. Suddaby
U.S. District Judge